

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

THURSDAY, THE 15TH FEBRUARY 2007 / 26TH MAGHA 1928

OP.No. 12044 of 1997(H)

PETITIONER:

**M.UMMERKUTTY,AGED 41 YEARS,
S/O.LATE MYTHEENKUNJU,
MANNANTEVADAKKATHIL, PALACKAL,
THEVALAKKARA P.O., KOLLAM.**

BY ADV. SRI.K.B.SURESH

RESPONDENTS:

- 1. THE ASSISTANT EDUCATIONAL OFFICER, CHAVARA, KOLLAM.**
- 2. THE MANAGER, ISSATHUL ISLAM U.P.SCHOOL &
PALACKAL MUSLIM L.P.SCHOOL, THEVALAKKARA, KOLLAM.**
- 3. STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY,
GOVT. SECRETARIAT, THIRUVANANTHAPURAM.**

**BY ADV. SRI.M.V.THAMBAN for R2
BY GOVERNMENT PLEADER SRI. MANOJ for R1 & R3**

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 15/02/2007 ALONG WITH OP NO. 19567OF 2000,
O.P.NO.19542 OF 1998 AND OP NO. 1015 OF 1998,
THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

O.P.NO.12044/1997 H

ORDER ON C.M.P.NO.21386/1997 IN O.P.NO.12044/2997 H

DISMISSED

15/02/2007

SD/- KURIAN JOSEPH, JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE JUDGMENT IN O.P.NO.14997/95-I, DTD. 21/09/1995 OF THE HON'BLE HIGH COURT OF KERALA.

EXT.P2: COPY OF THE ORDER NO.C.7727/95 DTD. 18/10/1995 OF THE 1ST RESPONDENT.

EXT.P3: COPY OF THE COMMON JUDGMENT IN O.P.NO.5782/92-L, DTD. 17/07/1996 OF THE HON'BLE HIGH COURT OF KERALA.

EXT.P4: COPY OF THE ORDER NO.D.6909/96, DTD. 24/12/1996 OF THE 1ST RESPONDENT TO THE 2ND RESPONDENT.

EXT.P5: COPY OF THE ORDER OF THE 2ND RESPONDENT TO THE PETITIONER DTD. 6/02/1997.

EXT.P6: COPY OF THE ORDER NO.D.817/97/K.DIS. DTD. 3/03/1997 ISSUED BY THE 1ST RESPONDENT TO THE COUNSEL FOR PETITIONER.

2ND RESPONDENT'S EXHIBITS:

EEXT.R2(A): COPY OF THE BY-LAWS RELATING TO 2ND RESPONDENTS SCHOOL.

EXT.R2(B): COPY OF THE ORDER OF THE DEPUTY DIRECTOR (EDUCATION), KOLLAM NO.46037/91/BE DTD. 12/03/1992.

/TRUE COPY/

Kss

KURIAN JOSEPH, J.

**O.P.Nos.12044/97, 1015 &
19542 of 1998 & 19567/2000**

Dated 15th February, 2007.

J U D G M E N T

The crucial issue arising for consideration is whether there were two separate managements for Palakkal Muslim Lower Primary School and Issathul Islam Upper Primary School. By the judgment dated 27.5.2003 in W.A.No.1111/97 and connected cases, a Division Bench of this Court has declared that there were two such separate units from 2.12.1991. To quote the relevant portion from the judgment, "The approval to treat the Palackal Muslim Lower Primary School as a separate unit having been accorded only with effect from 2.12.1991, necessarily till that date both schools have to be treated as a single unit from 4.6.1991 to 2.12.1991 for the purpose of appointment and promotion." In the light of the declaration of the factual and legal position with regard to the managements as above, what is required in these cases is only the consequential action to be taken by the concerned Assistant Educational Officer. There will be a direction to the Assistant Educational officer, Chavara to consider the grievances of the petitioners in all these cases with

notice to them and the concerned managements, and pass appropriate orders in the light of the above declaration within one month from the date of production of a copy of the judgment, ignoring all the orders to the contrary issued by the Government as well as the Educational Officers. The consequential benefits flowing from such consideration shall be disbursed to the eligible teachers within another two months. Needless to say, the required fixation etc. will be made, whenever required. In the event of delay beyond the period mentioned above, the concerned teachers will be entitled to get interest at the rate of 12% from the date of their appointment and the officers responsible for the delay will be personally liable for the same.

The writ petitions are disposed of as above.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J

**O.P.Nos.12044/97, 1015 &
19542 of 1998 & 19567/2000**

J U D G M E N T

Dated 15th February, 2007.